

Appl. No. 10/570,591
Amendment dated December 8, 2008
Reply to Office Action of September 16, 2008

REMARKS

In the September 16, 2008 Office Action, all of the claims stand rejected in view of prior art. In addition, claims 19-30 were rejected as being indefinite, and claims 35 and 36 were objected to as being respective duplicates of claims 17 and 18.

Status of Claims and Amendments

In response to the September 16, 2008 Office Action, Applicant has amended claims 1, 13, 17, 18, 19, 21 and 31 as indicated above. Claims 35 and 36 have been cancelled, and claims 37 and 38 have been added. Applicant wishes to thank the Examiner for the thorough examination of this application. In summary, claims 1-34, 37 and 38 are pending, with claims 1, 13, 17, 18, 19 and 31 being the only independent claims. Reexamination and reconsideration of the pending claims are respectfully requested in view of the above amendments and the following comments.

Claim Objections – Duplicate Claims

In paragraphs 2 and 3 of the Office Action, claims 35 and 36 were objected to as being substantial duplicates of claims 17 and 18, respectively. In response, Applicant has cancelled claims 35 and 36 to overcome the objection.

Claim Rejections - 35 U.S.C. §112

In paragraph 5 of the Office Action, claims 19-30 were rejected under 35 U.S.C. §112, second paragraph, as being indefinite. In response, Applicant has amended claims 19 and 21 to overcome the rejection. Applicant believes that the claims now comply with 35 U.S.C. §112, second paragraph. Withdrawal of the rejection is respectfully requested.

Rejections - 35 U.S.C. § 103

In paragraph 8 of the Office Action, claims 1, 3, 12, 17, 19, 21, 30 and 35 stand rejected under 35 U.S.C. §103(a) as being anticipated by U.S. Patent No. 5,038,135

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(Jurkiewicz et al.) in view of U.S. Patent No. 5,304,981 (Leising et al.). In response, Applicant has amended independent claims 1, 17 and 19 to clearly distinguish the prior art of record.

More specifically, independent claims 1, 17 and 19 now clearly recite that a power position warning indication is outputted *in response to* the recited detections. Clearly this arrangement is **not** disclosed or suggested by a combination of Jurkiewicz et al. and Leising et al. Jurkiewicz et al. appears to disclose a door ajar indicator on the dash when the ignition is still engaged. Leising et al. discloses a gear position sensor. Assuming for the sake of argument that a person having ordinary skill in the art would combine these two references, such a combination would **not** provide a system which would output a warning *in response to* the detection of three conditions (i.e., (1) the door being ajar, (2) the ignition being engaged, and (3) the gear being in park). The warning from such a combination would still only be in response to the door being ajar when the ignition is engaged. In other words, Leising et al. does not suggest a warning be outputted partially in response to its gear position detection. Under U.S. patent law, the mere fact that the prior art can be modified does not make the modification obvious unless the prior art provides an apparent reason for the desirability of the modification. Accordingly, the prior art of record lacks any apparent reason, suggestion or expectation of success for combining the patents to create Applicant's unique arrangement of a warning system.

In numbered paragraph 13 of the Office Action, claims 13, 15, 16, 18, 31, 33, 34 and 36 stand rejected under 35 U.S.C. §103(a) as being anticipated by U.S. Patent No. 5,926,088 (Barr) in view of U.S. Patent Application Publication No. 2003/0048180 (Takee et al.). In response, Applicant has amended independent claims 13, 18 and 31 to clearly distinguish the prior art of record.

In particular, independent claims 13, 18 and 31 now clearly recite that a power position warning indication is outputted in response to detection of the gear shift position being moved (or having been moved) to the P (Park) range. Clearly this arrangement is *not* disclosed or suggested by a combination of Barr and Takee et al. As set forth in paragraph 13 of the Office Action, neither Barr nor Takee et al. teaches generating an alarm when the gear shift position has been moved to the Park range. Barr's put-in-park alarm is generated only when the driver pushes the door handle (see Abstract). Takee et al.'s warning system outputs a warning if the key is inserted in the key cylinder and the driver's door is open. Even if a person having ordinary skill in the art were to combine these two references, the situation would not arise in which a warning would be outputted when the gear shift position is moved to the Park range. Before a warning is outputted, these references require either the driver's door to be open or the driver's door handle to be pushed. It is well settled in U.S. patent law that the mere fact that the prior art can be modified does not make the modification obvious unless the prior art provides an apparent reason for the desirability of the modification. Accordingly, the prior art of record lacks any apparent reason, suggestion or expectation of success for combining the patents to create Applicant's unique arrangement of a warning system.

Moreover, Applicant believes that dependent claims 2-12, 14-16, 20-30, and 32-34 are also allowable over the prior art of record in that they depend from independent claims 1, 13, 19 and 31, respectively, and therefore are allowable for the reasons stated above. Also, these dependent claims are further allowable because they include additional limitations. Thus, Applicant believes that since the prior art of record does not disclose or suggest the invention as set forth in independent claims 1, 13, 19 and 31, the prior art of record also fails to disclose or suggest the invention as set forth in the dependent claims.

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Therefore, Applicant respectfully requests that these rejections be withdrawn.

In paragraphs 9, 10, 11, 12, and 14 of the Office Action, claims 2, 4-11, 14, 20, 22-29, 32 were rejected under 35 U.S.C. §103 on various grounds of prior art. Applicant believes that the above amendments now render these claims allowable as well. Applicant respectfully requests withdrawal of the rejections.

New Claims

Applicant has added new claims 37 and 38 by the current Amendment. New claims 37 and 38 depend, respectively, from independent claims 1 and 13. Thus, Applicant believes that these claims are allowable in view of the above amendments and comments.

Prior Art Citation

In the Office Action, additional prior art references were made of record. Applicant believes that these references do not render the claimed invention obvious.

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In view of the foregoing amendment and comments, Applicant respectfully asserts that claims 1-34, 37 and 38 are now in condition for allowance. Reexamination and reconsideration of the pending claims are respectfully requested.

Respectfully submitted,

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